**THE HON'BLE SRI JUSTICE V.V.S.RAO**

WRIT PETITION NO.20147 OF 2005

19.9.2005

Between:

Bommireddy Venkata Subba Reddy

…Petitioner

And

The Joint Collector, Cuddapah,

Cuddapah District and others

…Respondents

**THE HON'BLE SRI JUSTICE V.V.S.RAO**

WRIT PETITION NO.20147 OF 2005

ORDER:

The petitioner filed present Writ Petition challenging the proceedings of first respondent dt.25.7.2005 whereby and whereunder while dismissing the revision petition filed by fourth respondent, second respondent cancelled the eksal permission (permission for one year) granted to the petitioner and the fourth respondent as violative of instructions of the Government and the Commissioner of Land Revenue prohibiting assignment/permission to cultivate the lands covered by tanks, kuntas, ponds, lakes, vagues, river projects and reservoir porambokes.

The fact of the matter is not much in dispute. The petitioner allegedly purchased an extent of Acs.1.14 comprised in S.No.421/A and 422/1A under registered sale deeds. There was Government land admeasuring Acs.2.43 in S.No.873/1 abutting the petitioner's land at Thummulur Village. The petitioner occupied the land and allegedly brought into cultivation. On a request made by him, Mandal Revenue

Officer, third respondent herein, granted eksal permission under the relevant Board Standing Orders and the same is being renewed since 1998. When the fourth respondent tried to interfere with the petitioner's land alleging that entire extent of Acs.4.00 in S.No.873/1 was given to him on eksal permission, the petitioner resisted the interference. Fourth respondent, therefore, filed a suit being O.S.No.587 of 1998 on the file of the Court of III Additional Junior Civil Judge, Kadapa, for permanent injunction against petitioner herein. The suit was decreed on 13.9.2001. The petitioner preferred an appeal being A.S.No.103 of 2001, on the file of the Court of I Additional District Judge, Kadapa. The appeal was allowed against which fourth respondent preferred S.A.No.277 of 2003 before this Court, which was dismissed by this Court on 3.3.2004. The petitioner alleges that as observed by the first appellate Court, the land claimed by fourth respondent and the land, which is in possession of the petitioner, are not one and the same.

The petitioner again approached the third respondent and obtained renewal of eksal permission by proceedings dt.7.9.2004. Assailing the same, fourth respondent filed appeal before the Revenue Divisional Officer, Kadapa, second respondent herein, questioning the eksal permission/renewal granted by third respondent on 25.2.2003. The appeal was dismissed by the Revenue Divisional Officer on 12.4.2005. Fourth respondent again approached the first respondent by filing a revision petition, who by the impugned order cancelled the eksal permission holding that the land in S.No.837/1 of Thummalur being river bed poramboke cannot be allotted and that petitioner and fourth respondent have no right to possess the land in S.No.873/1.

The learned Counsel for the petitioner contends that the land admeasuring more than Acs.300.00 in Survey No.873/1 of Thummulur village abutting to Papagni River was assigned to several individuals through DKT pattas or eksal pattas. These lands are not covered by water and they are not included in Prohibitory Order Book. These lands are situated far away from the riverbed and therefore, the Mandal Revenue Officer continued to permit petitioner and others under eksal lease. According to the learned Counsel, there cannot be any prohibition for assigning the land in Survey No.873/1 either under DKT patta or eksal lease. He also submits that the petitioner is a poor person, he dug a bore well by obtaining loans at high rate of interest and raised groundnut crop in an extent of Acs.1.00 and made the remaining extent of land for paddy cultivation. Therefore, he would urge that the impugned order of the Joint Collector is illegal and arbitrary.

As noticed above, the fourth respondent initially filed appeal before the second respondent challenging the action of the third respondent in granting eksal lease. The said appeal was dismissed. He, therefore, filed a revision petition before the Joint Collector, the first respondent herein. The first respondent noticed that the eksal permission does not confer any right on the individuals for assignment of the land in future and therefore, the petitioner and fourth respondent cannot claim any patta. Secondly, the first respondent noticed that the land in Survey No.873/1 is classified as Papagni River poramboke and that as per the instructions of the Government in Memo dated 22.8.2003, lands covered by tanks, kunta, ponds, lakes, vagu, vanka, riverbeds and reservoir porambokes cannot be assigned and they should be entered in the Prohibitory Order Book. This finding of the first respondent

is challenged as factually incorrect.

The learned Counsel has placed before this Court a field Survey map of Thummulur village. The petitioner's land in Survey No.422/1 along with other survey numbers are situated a little far away from the riverbed. The lands in Survey Nos.895 to 910 are in a row abutting the river. However, Papagni River in Survey No.873 from Survey Nos.906 to 910 also flows on the other side. That is to say, between the lands in Survey Nos.420, 421 and 906, there is riverbed. No details are furnished as to exact location of the petitioner's land. If the petitioner's land in Survey No.873/1 is beyond Survey Nos.895 etc., or if the land is situated between Survey Nos.420, 421 and 906, it is certainly the riverbed and the submission that it is not riverbed cannot be accepted. The judgment of the Court of I Additional District Judge, Kadapa in A.S.No.103 of 2001 is of no assistance to the petitioner. It was observed therein that the land in Survey Nos.421/1 and 422/1A belong to the petitioner and that he was also in possession the land abutting to the land in Survey Nos.421 and 422. This would only strengthen that riverbed poramboke land is in possession of the petitioner, whether it is eksal or otherwise. Secondly, though the petitioner and fourth respondent, who are vying with each other in respect of Government land in Survey No.873/1, the District Collector was not made a party to the suit. The validity of the impugned order cannot be decided with reference to observations if any made in the judgment of the Civil Court. It is now well settled that the riverbed poramboke or tank bed poramboke lands cannot be assigned even by the Government unless and until appropriate action is taken for conversion of such lands.

In the result, for the above reasons, the writ petition is devoid of merits and is, accordingly, dismissed. No costs.

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(**V.V.S.RAO,J**)

September 19, 2005.

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